

Stephen C. Slotnick
State of Alaska
Department of Law
P.O. Box 110300
Juneau, AK 99811-0300
Telephone: (907) 465-6722
Facsimile: (907) 465-2520
E-mail: neil_slotnick@law.state.ak.us

Attorney for the Alaska Department of Education and Early Development, Art Arnold, and Sharon Schumacher.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

LEWIS KING DEANS,
Plaintiff,
vs.
ANCHORAGE SCHOOL DISTRICT,
et al.,
Defendants.

Case No. 3:05-cv-00283-TMB

STATE'S JOINDER IN ANCHORAGE SCHOOL DISTRICT'S NOTICE
and
STATE'S REQUEST FOR CLARIFICATION AND REQUEST TO STRIKE
DOCUMENTS OR HOLD FILINGS IN ABEYANCE

Counsel for the state defendants gives notice that he has not received the documents filed by Deans on March 14, 2007. After receiving electronic notification from the court on March 19, however, counsel was able to view the documents, and provides this response.

The state defendants join in Anchorage School District's notice of uncertainty regarding Mr. Deans' filing. The reason we need clarification is that, in this

1 litigation, Mr. Deans has filed many documents, and many of his documents have been
2 given titles that do not necessarily match the form of pleadings one would usually find in
3 the Civil Rules.

4 For example, the document served with a summons that began this
5 litigation was titled “Verified Motion of Summary Judgment.” The state has been
6 treating this document as a complaint, and has requested judgment on the pleadings
7 because this complaint fails to state a claim for relief.

8 As this shows, the defendants cannot rely on the title of Mr. Deans’ filings
9 to give us guidance as to their true nature. Now we have two new documents filed by
10 Mr. Deans and we cannot tell what they are.¹ Although they purport to be motions, they
11 actually oppose the defendants’ Motions to Dismiss. Thus, they appear to be
12 supplemental oppositions or sur-replies, neither of which is allowed under the Federal
13 Rules of Civil Procedure, and neither of which would be timely even if allowed.
14 Furthermore, given that the Motion to Dismiss must be decided on the pleadings, the
15 filing of exhibits in opposition to a Motion to Dismiss is not allowed. Therefore, if these
16 documents are late-filed supplemental briefs to address the existing motions, the state
17 would request that these documents be struck from the record.

18 In the alternative, if this court believes that these documents are motions
19 that would begin a new round of briefing, then the state requests that the court hold these

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¹ The documents are titled “Substantiated Evidential Motion to Objection of Motion Memorandum Supporting Motion to Dismiss by Defendants” and “Motion to [Submit] Evidential Exhibits Supporting Objection to Motion Memorandum Supporting Motion to Dismiss All Defendants.”

1 motions in abeyance until the court has ruled on the defendants' Motions to Dismiss. If
 2 we need to address these motions at a later time, the court can set a briefing schedule.
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4 In sum, in the state's view, the defendants' existing motions are ripe for
 5 decision without further briefing or argument. The documents filed by Mr. Deans should
 6 not be considered by this court at this time. The state will not respond to the newly filed
 7 documents unless requested to do so by this court.

8 DATED this 27th day of March 2007, at Juneau, Alaska.

9
 10 TALIS J. COLBERG
 11 ATTORNEY GENERAL
 12 Attorney for defendants the Alaska Department
 13 of Education and Early Development, Art
 14 Arnold, and Sharon Schumacher.

15 By: s/ Stephen C. Slotnick
 16 Stephen C. Slotnick
 17 Assistant Attorney General
 18 P.O. Box 110300
 19 Juneau AK 99811-0300
 20 Telephone: (907) 465-6722
 21 Facsimile: (907) 465-2520
 22 E-mail: neil_slotnick@law.state.ak.us
 23 Alaska Bar No. 9011113

24 **CERTIFICATE OF SERVICE**

25 I hereby certify that on March 27, 2007, a copy of the
 26 foregoing document was served via electronically and/or
 27 by USPS on the following attorneys or parties of record:

28 Lewis King Deans
 29 310 West 76th Ave., Apt. E
 30 Anchorage AK 99518

31 Raymond E. Goad, Jr., Esq.
 32 Jermain, Dunnagan & Owens, P.C.
 33 3000 'A' Street, Suite 300
 34 Anchorage AK 99503

35 s/ Rebecca Allison
 36 Rebecca Allison, Law Office Assistant